

STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

L-3 Communications Corporation  
960 Industrial Road  
San Carlos, California 90470

ID No. (CAD 056 160 336)

Respondent.

Docket HWCA 20040412

CONSENT ORDER

Health and Safety Code  
Section 25187

**INTRODUCTION**

The State Department of Toxic Substances Control (Department) and L-3 Communications Corporation Electron Devices Division (Respondent) enter into this Consent Order and agree as follows:

1. Respondent generates and treats hazardous waste at the following site:  
960 Industrial Road, San Carlos, California 90470 (Facility).
2. The Department inspected the Facility on July 25, 2003.
3. The Department alleges the following violations:
  - 3.1. Respondent violated Health and Safety Code section 25123.3, subsection (d)(3)(A), and California Code of Regulations, title 22 (Cal. Code Regs., tit. 22), section 66262.34, subsection (e)(1)(B), in that on or about July 25, 2003, Respondent stored the following hazardous waste containers for more than one year at satellite accumulation areas (SAA):
    - a. Two 5-gallon, white poly containers of paint related materials with acetone and molybdenum/manganese and marked with 3/2/01 as an initial date of accumulation. These containers were located in the lab.

b. One 5-gallon, white poly container of paint related materials with acetone and molybdenum/manganese, marked with waste code D001/D035 and with 4/1/02 as an initial date of accumulation. This container was located in the lab.

c. One 10-gallon, white poly container of nickel stripping solution with chrome, nickel, and cadmium and marked with 4/1/02 as an initial date of accumulation. This container was located in the plating room.

3.2. Respondent violated Cal. Code Regs., tit. 22, section 66262.34, subsection (a), in that on or about July 25, 2003, Respondent stored hazardous waste in the metal cabinet located in the Chemical Storage Area, Bay 2, for greater than 90 days with 12/12/02 as the initial date of accumulation. The operator claimed that the cabinet was being managed as an SAA with assorted paint-related and resin container wastes stored in it. However, since this cabinet was located outside the area where the wastes were generated, the area did not qualify as an SAA. The containers were less than 2.5 gallons in size.

3.3. Respondent violated Cal. Code Regs., tit. 22, section 66262.34, subsection (a), and section 66265.173, subsection (a), in that on or about July 25, 2003, Respondent failed to close five 55-gallon containers containing smaller metal and plastic containers up to 2.5 gallons in size of resin waste located in the Chemical Storage Area, Bay 2.

3.4. Respondent violated Cal. Code Regs., tit. 22, section 66262.34, subsection (f), in that on or about July 25, 2003, Respondent failed to label five 55-gallon containers containing smaller metal and plastic containers up to 2.5 gallons in size of resin waste located in the Chemical Storage Area, Bay 2.

3.5. Respondent violated Cal. Code Regs., tit. 22, section 67450.3, subsection (c)(9)(F), and section 66265.192, subsections (h)(1) and (h)(2)(A), in that from on or about July 28, 2000 until January 2003, Respondent failed to provide tank assessments for eleven hazardous waste accumulation and treatment tanks.

3.6. Respondent violated Cal. Code Regs., tit. 22, section 67450.3, subsection (c)(9)(F), and section 66265.192, subsections (h)(1) and (h)(2)(A), in that from July 11,

2000, until on or about July 25, 2003, Respondent failed to provide a tank assessment for the following tanks containing hazardous waste:

a. One 275-gallon waste accumulation tank containing aqueous waste with cyanide, located in the waste water treatment area.

b. One 1100-gallon waste accumulation tank containing corrosive waste with metals, located in the waste water treatment area.

3.7. Respondent violated Cal. Code Regs., tit. 22, section 66265.192(j), in that its 2003, 2004, and 2005 tank assessments lacked assessment of required items, including but not limited to those violations described in Attachment A hereto.

3.8. Respondent violated Cal. Code Regs., tit. 22, section 67450.3, subsection (c)(9)(F), and section 66265.193, subsection (j)(2)(A) and subsection (I), in that on or about July 25, 2003, Respondent failed to provide secondary containment for the tank system under the PBR tier, and for the two waste accumulation tanks containing corrosive waste (metals, and aqueous waste with cyanide).

4. A dispute exists regarding the alleged violations.

5. In entering into this Consent Order, Respondent does not admit the violations alleged above, except as follows: Respondent admits the facts alleged above for the purposes of any administrative or enforcement action brought pursuant to the Hazardous Waste Control Law, Health and Safety Code section 25100 et seq., for any additional violation(s) that occur within 3 years of the effective date of this consent order.

6. Respondent represents to the Department that it intends to replace the equipment with which and the process by which it processes cyanide-containing and metal-containing wastewater. As to the cyanide-containing waste waters, Respondent represents that it will install an ion-exchange system designed by U.S. Filter Corporation that will replace the existing cyanide treatment system for these waste waters, and that the existing cyanide waste water holding tank will be removed. As to other elements of the treatment system, Respondent represents that the existing metal-containing waste water holding tank and the clear well tank will both be replaced with double-walled tanks, *i.e.*, tanks that provide secondary containment for their entire respective



contents, and that a new ion exchange system will be installed to treat those waste waters. Respondent represents that certain interim process changes are completed and that additional process changes will occur on or before the dates set forth in the schedule in Attachment B, absent unforeseeable delay on the part of any governmental agency responsible for issuing required permits, licenses or approvals required to install and operate the systems.

7. The parties wish to avoid the expense of litigation and to ensure prompt compliance.

8. Jurisdiction exists pursuant to Health and Safety Code section 25187.

9. Respondent waives any right to a hearing in this matter.

10. This Consent Order shall constitute full settlement of the violations alleged above, but does not limit the Department from taking appropriate enforcement action concerning other violations.

11. This Consent Order does not relieve Respondent of any obligation under any applicable law, prior to commencement of operation of the permanent cyanide waste water management system, to either (a) demonstrate to the Department's satisfaction that the system is a closed-loop recycling system that obviates the need for a cyanide treatment consent order, or (b) obtain either a cyanide treatment consent order from the Department, or prior written consent from the Department to continue interim cyanide treatment pending receipt of a cyanide treatment consent order.

#### **SCHEDULE FOR COMPLIANCE**

12. Respondent shall comply with the following:

12.1. The violations described in sections 3.1 through 3.4 above have been corrected and the violations described in sections 3.5 through 3.7 relate to deficiencies in tank assessments previously performed by Respondent. Because Respondent is changing its tank system components and configuration, no further corrective action or submittal is required for these violations.

12.2. The secondary containment violations described in section 3.8 have not been corrected. Therefore:

- a. To satisfy regulatory requirements for adequate secondary containment, Respondent has ceased use of the clarifier/mix-tank unit.
- b. Within one month of the date of effective date of this Consent Order, Respondent shall submit to the Department a tank assessment certified by an independent, licensed professional civil engineer, that certifies compliance with all regulatory criteria applicable to Respondent's interim ion exchange metals and cyanide management systems. Such assessment must be performed pursuant to Cal. Code Regs., tit. 22, section 66265.192 or other applicable regulatory criteria.
- c. On or before March 30, 2008, Respondent shall submit to the Department a tank assessment certified by an independent, licensed professional civil engineer that certifies compliance with all regulatory criteria applicable to Respondent's permanent metals- and cyanide-containing waste water management systems. Such assessment must be performed under Cal. Code Regs., tit. 22, section 66265.192 or other applicable regulatory criteria.
- d. L-3 shall pay \$1,000 per day in penalties for any unexcused delay beyond March 30, 2008 in operating the new permanent waste management systems for cyanide- and metals-containing waste water.
- e. L-3 shall submit to the Department information on its progress in designing, permitting, and installing its new permanent system by delivering the items in Attachment C by the dates indicated therein.

13. Submittals. All submittals from Respondent pursuant to this Order, summarized in Attachment C hereto, shall be sent simultaneously to:

Charles A. McLaughlin, Chief  
State Oversight and Enforcement Branch  
Enforcement and Emergency Response Program  
Department of Toxic Substances Control  
8800 Cal Center Drive  
Sacramento, California 95826-3200

Bill Lent  
Hazardous Materials Program Manager  
San Mateo County Environmental Health  
455 County Center, 4th fl.  
Redwood City, California 94063

14. Extension Requests. If Respondent is unable to perform any activity or submit any document within the time required under this Consent Order, the Respondent may, prior to expiration of the time specified in this order or any Attachment thereto, request an extension of time in writing. The extension request shall include a justification for the delay. If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

15. Communications. All approvals and decisions of the Department made regarding submittals, notifications and response to extension requests will be communicated to Respondent in writing by the Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve Respondent of the obligation to obtain such formal approvals as may be required.

16. Department Review and Approval. If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Order fails to comply with the Order or fails to protect public health or safety or the environment, the Department may return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes. If Respondent fails to make the recommended changes, the Department may modify the document as deemed necessary and approve the document as modified, or return the document to Respondent



with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

17. Compliance with Applicable Laws. Respondent shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

18. Endangerment during Implementation. In the event that the Department determines that any circumstances or activity (whether or not pursued in compliance with this Order) are creating an imminent or substantial endangerment to the health or welfare of people on the site or in the surrounding area or to the environment, the Department may order Respondent to stop further implementation of this Order for such period of time as needed to abate the endangerment. Any deadline in this Order directly affected by a Stop Work Order under this section shall be extended for the term of the Stop Work Order.

19. Liability. Except as provided in Section 10, nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent. Notwithstanding compliance with the terms of this Order, Respondent may be required by the Department, the Certified Unified Program Agency ("CUPA") or other jurisdictional agency to take further actions as are necessary to protect public health or welfare or the environment. Such further actions include all actions necessary to achieve regulatory closure of the existing Respondent's wastewater treatment unit, plating, and cleaning shops, including, but not limited to: site sampling, any necessary remediation, and compliance with CUPA or Department closure documentation requirements as and to the extent either or both may be applicable.

20. Site Access. Access to the site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any agency having jurisdiction. Nothing in this Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Department and its authorized representatives shall have the authority to enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and

contracts relating to the Site; reviewing the progress of Respondent in carrying out the terms of this Order; and conducting such tests as the Department may deem necessary. Respondent shall permit such persons to inspect and copy all records, documents, and other writings, including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Order.

21. Data and Document Availability. Respondent shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondent or on Respondent's behalf in any way pertaining to work undertaken pursuant to this Order. Respondent shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Order. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Order. All such data, reports, and other documents shall be preserved by Respondent for a minimum of six years after the conclusion of all activities under this Order. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondent shall either comply with that request and deliver the documents to the Department, or permit the Department to copy the documents prior to destruction. Respondent shall notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Order.

22. Government Liabilities. The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties in carrying out activities pursuant to this Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to the Order.

23. Incorporation of Plans and Reports. All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to this Order are incorporated in this Order upon approval by the Department.

#### **OTHER PROVISIONS**

24. Additional Enforcement Actions. By issuance of this Order, the Department does not waive the right to take further enforcement actions.



25. Penalties for Noncompliance. Failure to comply with the terms of this Order may also subject Respondent to costs, penalties, and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

26. Parties Bound. This Order shall apply to and be binding upon Respondent, and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations.

27. Time Periods. "Days" for purposes of this Order means calendar days.

28. Compliance with Waste Discharge Requirements. Respondent shall comply with all applicable waste discharge requirements issued by the State Water Resources Control Board or a California regional water quality control board.

### **PAYMENTS**

29. Respondent agrees to pay a total of \$27,500, of which \$17,000 is a penalty, and \$10,500 is reimbursement of the Department's costs. Payment of \$24,500, representing \$14,000 in penalty and \$10,500 in reimbursement, is due within 30 days of the effective date of this Order. The remaining \$3,000 of the penalty amount shall be waived as per paragraph 30.

30. Respondent agrees to send the environmental manager for the site to the California Compliance School Modules I-IV. Enrollment in the California Compliance School shall occur within 180 days of the effective date of this order. Attendance must be completed and Respondent must submit a Certificate of Satisfactory Completion for the employee within 270 days of the effective date of this order. If Respondent fails to submit the certificate as required, the penalty of \$3,000 shall be due and payable within 270 days of the effective date of this order.

31. Respondent shall write one check made payable to the Department of Toxic Substances Control, and shall identify the Respondent and Docket Number, as shown in the heading of this case. Respondent shall deliver the payment to:

Department of Toxic Substances Control  
Accounting Office  
1001 I Street, 21st floor  
P. O. Box 806  
Sacramento, California 95812-0806

A photocopy of the check shall be sent to:

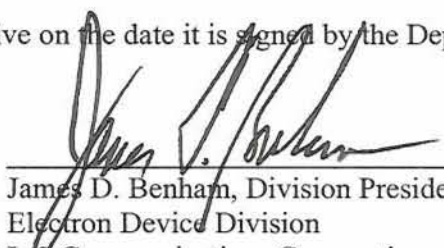
Mr. Charles A. McLaughlin, Chief  
State Oversight and Enforcement Branch  
Enforcement and Emergency Response Program  
Department of Toxic Substances Control  
8800 Cal Center Drive  
Sacramento, California 95826-3200

**AUTHORITY**

32. The undersigned represent that they are authorized to bind their respective corporation and agency in this matter.

**EFFECTIVE DATE**

33. This Order is final and effective on the date it is signed by the Department.



---

James D. Benham, Division President  
Electron Device Division  
L-3 Communications Corporation

---

Charles A. McLaughlin, Chief  
State Oversight and Enforcement Branch  
Department of Toxic Substances Control

## ATTACHMENT A

### Summary of tank-assessment deficiencies

#### 1. 2003 Tank Assessments

DTSC observed numerous deficiencies in the Tank Assessment that Respondent's consultant conducted in January 2003 and had certified by a professional engineer in May 2003. Deficiencies included, but were not limited to:

- A. Tank assessment was erroneously conducted as per Cal. Code Regs, tit. 22, section 66265.191 ("Assessment of Existing Tank System's Integrity"). Because Respondent's tanks were installed in 1995, tank assessments should be conducted pursuant to Cal. Code Regs, tit. 22, section 66265.192 ("Design and Installation of New Tank Systems or Components"), which governs tank systems installed on or after July 1, 1991.
- B. Tank assessment omitted cyanide waste accumulation tank, metals equalization tanks, and filter press from assessment, notwithstanding that all were identified as part of the tank system in Respondent's 1995 tank assessment.
- C. Tank assessment failed to describe: tank piping system; internal/external pumps (if any); age of tanks; adequacy of leak detection; corrosion protection, spill or overfill prevention; chemical compatibility of various constituents; structure damage; type and results of leak detection examination; and seismic requirements.
- D. Tank assessment omitted certification language required under Cal. Code Regs, tit. 22, section 66270.11(d).

The omissions described in (C), above, were not corrected in Respondent's additional September 2003 Tank Assessment (P.E.-certified in October 2003).

#### 2. 2004 Tank Assessment

DTSC observed numerous deficiencies in the Tank Assessment that Respondent's consultant conducted in March and September 2004 and had conditionally certified by a professional engineer in November 2004 (pending completion of indicated repairs). Deficiencies included, but were not limited to:

- A. Tank assessment was erroneously conducted as per Cal. Code Regs, tit. 22, section 66265.191, rather than section 66265.192.
- B. Tank assessment failed to include all tanks included in the 2003 assessments, notwithstanding that 2003 assessments were valid for one year only.
- C. The tank assessment failed to evaluate compliance with seismic requirements, failed to include hazardous characteristics of wastes that had been/would be handled, and failed to include calculations regarding secondary containment volume.
- D. The equalization and clear well tanks were documented to have inadequate secondary containment to comply with requirements in Cal. Code Regs, tit. 22, section 66265.193.



### 3. 2005 Tank Assessment

DTSC observed numerous deficiencies in the Tank Assessment that Respondent's consultant conducted in April 2005 and had certified by a professional engineer in May 2005. Deficiencies included, but were not limited to:

A. Tank assessment was erroneously conducted as per Cal. Code Regs, tit. 22, section 66265.191, rather than section 66265.192.

B. Tank assessment failed to describe: internal and external pumps (if any); adequacy of leak detection; corrosion protection; hazardous characteristics of wastes that had been/would be handled; chemical compatibility of hazardous constituents; type and results of leak detection examination; and compliance with seismic requirements.

C. Tank assessment did not include calculations demonstrating the adequacy of secondary containment for ancillary equipment, did not indicate the depth of the sump towards which any spills or leaks would be directed by the containment floor, and otherwise failed to describe how existing secondary containment meets the requirements of Cal. Code Regs, tit. 22, section 66265.193.

D. Tank assessment failed to include two (2) waste accumulation tanks containing cyanide and the metals bearing wastes.

E. Tank assessment omitted certification language required under Cal. Code Regs, tit. 22, section 66270.11(d).

F. The plant engineering work order did not specify dates on which the work order was received, the indicated maintenance work performed, and job completion confirmed.

## ATTACHMENT B

### L3 Communications New Plate Shop Construction Schedule

April 17, 2007 (Revised by L-3 on August 23, 2007)

Item No.	Schedule Item	Projected Start Date <sup>1</sup>	Projected Completion Date <sup>2</sup>
1	Purchase Order issued to Contractor	---	Completed
2	Project start	May 1, 2007	Started
3	Installation of interim ion exchange cyanide management system in existing plating shop	Jun 1, 2007	Completed
4	Installation of interim ion exchange metals management system in existing waste treatment area (removal of existing system)	Jul 1, 2007	Completed
5	Closure of existing wastewater treatment unit <sup>3</sup>	Aug 31, 2007	Oct 31, 2007
6	Spec and purchase equipment	May 15, 2007	Completed
7	Construction of new plate shop containment and building structure	May 15, 2007	Completed
8	Rough electrical installation	Jul 15, 2007	Completed
9	Manufacture process consoles	Jun 1, 2007	Dec 31, 2007
10	Placement of process consoles	Oct 1, 2007	Jan 31, 2008
11	Ventilation installation	Jul 1, 2007	Nov 30, 2007
12	Piping installation	Oct 1, 2007	Dec 31, 2007
13	Process consoles fit-up	Nov 1, 2007	Feb 28, 2008
14	Installation of permanent cyanide ion exchange system	Feb 1, 2008	Feb 28, 2008
15	Installation of permanent metals ion exchange system	Feb 1, 2008	Feb 28, 2008
16	System startup and qualification	Mar 1, 2008	Mar 30, 2008
17	Preparation of Closure Plan for existing plating and cleaning shops	Jan 1, 2008	Jan 31, 2008
18	Review of Closure Plan by CUPA	Feb 1, 2008	Feb 28, 2008
19	Closure of existing Plate Shop <sup>4</sup>	Apr 1, 2008	June 30, 2008
20	Closure of existing Cleaning Shop <sup>4</sup>	Apr 1, 2008	June 30, 2008
21	Project completion	---	July 1, 2008

<sup>1</sup> Projected start dates based on overall project start of May 1, 2007.

<sup>2</sup> Projected completion dates are contingent on timely inspections by the City Building and Fire Departments throughout the project.

<sup>3</sup> Completion of closure of existing wastewater treatment system is dependent on timely CUPA action.

<sup>4</sup> Completion of closure of existing plating and cleaning shops assumes all samples show site is clean and no further action is required.

## ATTACHMENT C

### Deliverables and schedule

ITEM	DUE
CUPA approval of permit change for metal-containing waste water treatment by means of evaporation	Within one week of CUPA approval
Tank assessment of interim ion exchange management systems for metals- and cyanide-containing waste water	Within one month of the effective date of this Consent Order
Written statement from Respondent documenting project completion of each of item on Attachment B of this consent decree that is not indicated as already "completed"	Within one week of actual completion date of each item
Until one year after start-up of permanent waste water treatment system, written statement from Respondent documenting each inspection by City Building Department as to hazardous waste management operations and copy of documentation of such	Written statement within one week of inspection date, and copy of documentation submitted to DTSC within one week of Respondent's receipt of such
Until one year after start-up of permanent waste water treatment system, written statement from Respondent documenting each inspection by City Fire Department as to hazardous waste management operations and copy of documentation of such	Written statement within one week of inspection date, and copy of documentation submitted to DTSC within one week of Respondent's receipt of such
In addition to following standard manifesting procedures, until September 30, 2008, Respondent to send an additional copy of all hazardous waste manifests directly to Maria Soria at the Department's Berkeley office	Within one week of manifest creation/transporter acceptance of waste.
Documentation of closure of existing wastewater treatment system	Within one week of receipt of written documentation from CUPA of regulatory closure
If transportable treatment unit is needed, authorization from DTSC (Headquarters) for same	Within one week of DTSC authorization
Tank assessment of permanent ion exchange metals and cyanide systems	Prior to system operation